Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Applications Filed by Altice N.V. and Cablevision Systems Corporation to Transfer Control of Authorizations from Cablevision Systems Corporation to Altice N.V.	))))	WC Docket No. 15-257

MEMORANDUM OPINION AND ORDER

Adopted: May 3, 2016 **Released: May 3, 2016**

By the Chief, Wireline Competition Bureau; Chief, International Bureau; Chief, Media Bureau; and Chief, Wireless Telecommunications Bureau:

I. INTRODUCTION

1. Altice N.V. (Altice) and Cablevision Systems Corporation (Cablevision, and together with Altice, Applicants) filed a series of applications pursuant to sections 214 and 310(d) of the Communications Act of 1934, as amended (Act) in connection with Altice's acquisition of Cablevision and certain subsidiaries.[1] We find that approval of the applications will serve the public interest, convenience, and necessity and hereby grant the applications subject to the condition requested by the Executive Branch Agencies set forth below.

2. On November 5, 2015, the Wireline Competition Bureau, International Bureau, Media Bureau, and Wireless Telecommunications Bureau released a Public Notice seeking comment on the proposed transaction.[2] In response to the Public Notice, four entities opposed or expressed concern about

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[1] 47 U.S.C §§ 214, 310(d). *See* Applications for Authority Pursuant to Section 214 of the Communications Act of 1934, as Amended, to Transfer Control of Authorizations from Cablevision Systems Corporation to Altice N.V., WC Docket No. 15-257 (filed Oct. 14, 2015) (Application), http://apps.fcc.gov/ecfs/document/view?id=60001329304. Applicants filed updated ownership information on November 2, 2015. *See* Letter from Yaron Dori, Counsel to Altice N.V., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 15-237 (filed Nov. 2, 2015) (Applicants' November 2, 2015 Update).

[2] *Applications Filed for Transfer of Control of Cablevision Systems Corporation to Altice N.V.*, Public Notice, 30 FCC Rcd 12373 (WCB, IB, MB, WTB 2015) (listing all authorizations and licenses to be transferred or assigned). Applicants state that proceedings at the New York State Department of Public Service Commission (NY PSC) and New Jersey Board of Public Utilities are pending. Applicants further state that they have provided notice of the transfer of control of the telephone certificate of public convenience and necessity of Cablevision to the Connecticut Public Utility Regulatory Authority. Letter from Yaron Dori, Counsel for Altice N.V., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 15-257, at 2 (filed Feb. 25, 2016) (Response to Information Request) (citing *Joint Petition of Altice N.V. and Cablevision Systems Corporation and Subsidiaries for Approval of a Holding Company Level Transfer of Control of Cablevision Lightpath, Inc. and Cablevision Cable Entities, and for Certain Financing Arrangements*, Case No. 15-M-0647 (NY PSC filed Nov. 4, 2015) (*NY PSC Proceeding*); *Joint Petition of Altice N.V. and Cablevision Systems Corporation and Subsidiaries*, Case No. TM15111256 (NJ BPU 2015)). Our review of applications filed with the Commission does not affect the states' independent proceedings on the proposed transaction, nor do we intend any finding in this Memorandum Opinion and Order to pre-judge the states' independent consideration of matters before them under applicable state law or precedent, which may differ from our standard of review. On November 4, 2015, the U.S. Department of Justice (DOJ) granted early termination of

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the transaction.[3] On December 16, 2015, DOJ, the U.S. Department of Justice, including the Federal Bureau of Investigation, with the concurrence of the U.S. Department of Homeland Security and the U.S. Department of Defense (collectively, the Executive Branch Agencies) filed a letter requesting that the Commission defer action until the Executive Branch Agencies completed their review of the transaction for matters related to "national security, law enforcement, and public safety issues."[4] On April 20, 2016, the Executive Branch Agencies advised the Commission that they have no objection to grant of the applications provided that we condition it on compliance by Altice and Cablevision with the commitments and undertakings set forth in the April 18, 2016 Letter of Agreement (2016 LOA) from the Applicants and Cequel Corporation d/b/a Suddenlink Communications (Cequel) to the DOJ, pursuant to which Applicants are bound by the definitions, rights, and obligations contained in the December 11, 2015 National Security Agreement (2015 NSA) between Altice, Cequel, and the DOJ.[5]

3. We have carefully reviewed the record, including supplemental information filed and verified by Applicants that we requested.[6] Based on our analysis, we find that the likely public interest benefits outweigh any potential public interest harms. Accordingly, we conclude that the transaction, on balance, serves the public interest, and we consent to the proposed assignments and transfers of control subject to compliance by Altice and Cablevision with the terms of the 2016 LOA and 2015 NSA.

II. BACKGROUND

A. Description of the Applicants

1. Altice N.V.

4. Altice, a publicly-traded holding company incorporated in the Netherlands, operates, through its subsidiaries, as a provider of fixed and mobile voice, video, and broadband services in France, Belgium, Luxembourg, Portugal, Switzerland, Israel, the French Caribbean and Indian Ocean regions, the Dominican Republic, and—more recently—the United States.[7] Altice serves approximately 34.5 million subscribers worldwide.[8] On December 18, 2015, the Commission granted the applications of Altice and Cequel Corporation d/b/a Suddenlink Communications (Suddenlink) seeking approval for the assignment and transfer of control of licenses held by Suddenlink to Altice.[9] The acquisition of Suddenlink marked

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its pre-merger review under the Hart-Scott-Rodino Antitrust Improvement Act of 1975. Early Termination Notice, https://www.ftc.gov/enforcement/premerger-notification-program/early-termination-notices/20160027.

[3] *See* Communications Workers of America (CWA) Petition; MFRConsulting Comments; Zoom Telephonics, Inc. (Zoom) Comments; Cogent Communications, Inc. (Cogent) Comments; Joint Reply Comments of Altice and Cablevision (Applicants' Reply); Zoom Telephonics, Inc. Reply; MFRConsulting Reply. We agree with Applicants that MFRConsulting is required to sign its pleadings in accordance with section 1.52 of the Commission's rules, which it has not done for all submissions it has made in this proceeding. Applicants' Reply at 2 (citing 47 CFR § 1.52, which requires that all pleadings submitted to the Commission be signed by an attorney or, if not signed by an attorney, verified by the party submitting it to the Commission). The Commission requires pleadings to be signed to be part of a full evidentiary record, and because MFRConsulting repeated its general arguments in signed submissions, *see, e.g.*, MFRConsulting's Feb. 19, 2016 Submission at 2, we address its objections below.

[4] *See* Letter from Kristin A. Taylor, Attorney, U.S. Department of Justice, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 15-257 (filed Dec. 16, 2015).

[5] *See infra* Section III.D.

[6] *See supra* note 2.

[7] Application at 4.

[8] *Id*.

[9] *See Applications Filed by Altice N.V. and Cequel Corporation d/b/a Suddenlink Communications to Transfer Control of Authorizations from Suddenlink Communications to Altice N.V.*, WC Docket No. 15-135, Memorandum Opinion and Order, 30 FCC Rcd 14352 (WCB, IB, MB, WTB 2015) (*Suddenlink/Altice Order*).

Altice's entry into the United States, as neither Altice, nor any of its subsidiaries, had any other U.S. operations prior to the consummation of the Altice/Suddenlink transaction.[10] Suddenlink offers cable television, broadband, interconnected Voice over Internet Protocol (VoIP), and certain competitive telecommunications services to 1.5 million customers in seventeen southern and western states. The footprint of Suddenlink's network does not overlap in whole or in part with that of Cablevision, and the two companies do not operate in any of the same markets.[11]

2. Cablevision Systems Corporation

5. Cablevision offers digital television, Internet services, and VoIP service to approximately 3.1 million subscribers in New York, New Jersey, and Connecticut.[12] Cablevision also operates a network of over 1 million Wi-Fi Internet access points across the Cablevision footprint. Cablevision's subsidiary, Cablevision Lightpath, Inc., offers competitive telecommunications services to companies in the New York Metro area[13] and also owns Cablevision Media Sales, the company's advertising sales division. Cablevision provides news and information in its service area through the News 12 programming networks; Newsday, a Long Island daily newspaper; amNewYork, a free daily serving New York City; and Star Community Publishing, a publisher of weekly shoppers and community papers on Long Island.[14]

B. Description of the Transaction

6. Applicants state that on September 16, 2015, Cablevision and Altice entered into an Agreement and Plan of Merger (Agreement) pursuant to which Altice would acquire 100 percent of the shares of Cablevision.[15] Applicants state that "Altice has formed a chain of three wholly owned Dutch subsidiaries, with each subsidiary wholly owning the next and the lowest level entity wholly owning a newly formed Delaware corporation, Neptune Holding US Corp."[16] Applicants represent that Neptune Holding US Corp. wholly owns Neptune Merger Sub Corp. (Merger Sub), also a Delaware corporation.[17] Applicants state that "Merger Sub will be merged with and into Cablevision, after which point Merger Sub will no longer exist as a separate entity."[18] Applicants further state that "Cablevision will be the surviving corporation; it will be 100 percent directly owned by Neptune Holding US Corp. and 100 percent indirectly owned by Altice."[19] After consummation of the proposed transaction, Cablevision would ultimately be majority owned and controlled by Patrick Drahi, a citizen of Israel (approximately a 60.45 percent interest through his indirect ownership interest in Altice).[20]

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[10] Application at 4. Altice states that it consummated the Suddenlink transaction on December 21, 2015. Letter from Yaron Dori, Counsel to Altice N.V., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 15-135 (filed Jan. 20, 2016).

[11] Application at 4; *see also Suddenlink/Altice Order*, 30 FCC Rcd at 14354, para. 5.

[12] Application at 4-5. Cablevision also serves a single franchise community in Pennsylvania. *Id.*

[13] Applicants define the New York Metro area as Cablevision's service region in the Bronx, Brooklyn, Long Island, Greater Hudson Valley, Northern New Jersey, and Southern Connecticut. *Id.* at 5 n.1.

[14] Applicants state that Altice's acquisition of Cablevision excludes any interest in Cablevision's programming interests, MSG Networks and AMC Networks, Inc. *Id.* at 7.

[15] *Id.* at 5.

[16] *Id.*

[17] *Id.*

[18] Application at 5.

[19] *Id.*

[20] Applicants provided organizational charts depicting pre-closing and post-closing ownership chains. *See* Application at Attach. A. On November 2, 2015, Applicants also stated, "CPP Investment Board, a Canada-

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III. DISCUSSION

A. Standard of Review

7. Pursuant to sections 214(a) and 310(d) of the Act, we must determine whether the Applicants have demonstrated that the proposed transfer of control of licenses and authorizations will serve the public interest, convenience, and necessity. In making this determination, we assess whether the proposed transaction complies with the specific provisions of the Act,[21] other applicable statutes, and the Commission's rules.[22] If the transaction does not violate a statute or rule, we consider whether the transaction could result in public interest harms by substantially frustrating or impairing the objectives or implementation of the Act or related statutes.[23] We then employ a balancing test weighing any potential public interest harms of the proposed transaction against any potential public interest benefits.[24] The Applicants bear the burden of proving, by a preponderance of the evidence, that the proposed transaction, on balance, serves the public interest.[25]

8. The Commission's public interest evaluation necessarily encompasses the "broad aims of the Communications Act," which include, among other things, a deeply rooted preference for preserving and enhancing competition, accelerating private sector deployment of advanced services, promoting a diversity of information sources and services to the public, and generally managing the spectrum in the public interest.[26] Our public interest analysis also entails assessing whether the proposed transaction would affect the quality of communications services or result in the provision of new or additional services to consumers.[27] In conducting this analysis, we may consider technological and market changes, and the nature, complexity, and speed of change of, as well as trends within, the communications industry.[28]

9. The Commission's competitive analysis, which forms an important part of the public interest evaluation, is informed by, but not limited to, traditional antitrust principles.[29] The Commission and the DOJ each has independent authority to examine the competitive impacts of proposed communications mergers and transactions involving transfers of Commission licenses, but the standards

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organized investment management organization that invests the assets of the Canada Pension Plan ('CPPIB'), and a group of limited partnerships formed under the laws of Guernsey, U.K., and associated with BC Partners Holdings Limited ('BC Partners') had the option to indirectly purchase a combined total of up to a 30 percent interest in Cablevision in connection with the Transaction. CPPIB and BC Partners have now exercised that option." Applicants' November 2, 2015 Update at 1.

[21] Section 310(d) requires that we consider applications as if the proposed transferee were applying for the licenses directly. 47 U.S.C. § 310(d); *see Applications of AT&T, Inc. and DIRECTV for Consent to Assign or Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 30 FCC Rcd 9131, 9139, para. 18 n.35 (2015) (*AT&T/DIRECTV Order*); *AT&T Inc. and BellSouth Corporation Application for Transfer of Control*, Memorandum Opinion and Order, 22 FCC Rcd 5662, 5672, para. 19 (2007) (*AT&T/BellSouth Order*).

[22] *See AT&T/DIRECTV Order*, 30 FCC Rcd at 9139-40, para. 18 (and cases cited therein); *Applications filed by Qwest Communications International Inc. and CenturyTel, Inc. d/b/a CenturyLink for Consent to Transfer Control*, Memorandum Opinion and Order, 26 FCC Rcd 4194, 4199, para. 7 (2011).

[23] *See AT&T/DIRECTV Order*, 30 FCC Rcd at 9139-40, para. 18 (and cases cited therein).

[24] *Id*.

[25] *Id.*

[26] *Id*. at 9140, para. 19.

[27] *Id.*

[28] *Id.*

[29] *See AT&T/DIRECTV* Order, 30 FCC Rcd at 9140-41, para. 20 (and cases cited therein).

governing the Commission's competitive review differ somewhat from those applied by the DOJ.[30] The Commission, like the DOJ, considers how a transaction would affect competition by defining a relevant market, looking at the market power of incumbent competitors, and analyzing barriers to entry, potential competition, and the efficiencies, if any, that may result from the transaction.[31]

10. The DOJ, however, reviews telecommunications mergers pursuant to section 7 of the Clayton Act, and if it sues to enjoin a merger, it must demonstrate to a court that the merger may substantially lessen competition or tend to create a monopoly.[32] The DOJ review is consequently limited solely to an examination of the competitive effects of the acquisition, without reference to diversity, localism, or other public interest considerations.[33] The Commission's competitive analysis under the public interest standard is broader. For example, the Commission considers whether a transaction would enhance, rather than merely preserve, existing competition, and often takes a more expansive view of potential and future competition in analyzing that issue.[34]

11. Finally, the Commission's public interest authority and our extensive regulatory and enforcement experience enable us, where appropriate, to impose and enforce transaction-related conditions that ensure that the public interest is served.[35] Specifically, section 303(r) of the Act authorizes the Commission to prescribe restrictions or conditions not inconsistent with law that may be necessary to carry out the provisions of the Act.[36] Similarly, section 214(c) of the Act authorizes the Commission to attach to the certificate "such terms and conditions as in its judgment the public convenience and necessity may require."[37] In exercising this authority to carry out its responsibilities under the Act and related statutes, the Commission has imposed conditions to confirm specific benefits or remedy specific harms likely to arise from transactions.[38]

B. Applicants' Qualifications

12. As a threshold matter, we must determine whether the Applicants meet the requisite qualifications to hold, assign, and transfer licenses under section 310(d) of the Act and the Commission's rules. In general, when evaluating transfers or assignments under section 310(d), we do not re-evaluate

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[30] *See, e.g.*, *id.*

[31] *Id*.

[32] 15 U.S.C. § 18; *see also AT&T/DIRECTV Order,* 30 FCC Rcd at 9141, para. 21 (and cases cited therein).

[33] *See AT&T/DIRECTV Order,* 30 FCC Rcd at 9141, para. 21 (and cases cited therein).

[34] *Id.*

[35] *Id*. at 9141, para. 22*; see also Application of WorldCom, Inc. and MCI Communications Corporation for Transfer of Control of MCI Communications Corporation to WorldCom, Inc.*, Memorandum Opinion and Order, 13 FCC Rcd 18025, 18032, para. 10 (1998) (*WorldCom/MCI Order*) (stating that the Commission may attach conditions to the transfers); *see AT&T/DIRECTV Order,* 30 FCC Rcd at 9141, para. 22 (and cases cited therein).

[36] 47 U.S.C. § 303(r). *See AT&T/DIRECTV Order,* 30 FCC Rcd at 9141, para. 22 (and cases cited therein); *WorldCom/MCI Order*, 13 FCC Rcd at 18032, para. 10 (citing *FCC v. Nat'l Citizens Comm. for Broad.*, 436 U.S. 775 (1978) (upholding broadcast-newspaper cross-ownership rules adopted pursuant to section 303(r))); *United States v. Southwestern Cable Co*., 392 U.S. 157, 178 (1968) (holding that section 303(r) permits the Commission to order a cable company not to carry broadcast signal beyond station's primary market); *United Video, Inc. v. FCC,* 890 F.2d 1173, 1182-83 (D.C. Cir. 1989) (affirming syndicated exclusivity rules adopted pursuant to section 303(r) authority).

[37] 47 U.S.C. § 214(c). *See also SBC Communications Inc. and AT&T Corp. Applications for Approval of Transfer of Control*, Memorandum Opinion and Order, 20 FCC Rcd 18290, 18303, para. 19 (2005).

[38] *Id.*

the qualifications of the transferor or assignor.[39] Exceptions to this rule occur where, for example, issues related to basic qualifications have been designated for hearing by the Commission or have been sufficiently raised in petitions to warrant the designation of a hearing.[40] The Commission has not designated any issues related to this transaction for hearing, and no commenters raised concerns regarding Cablevision's qualifications in the record. We therefore need not evaluate Cablevision's basic qualifications.

13. Section 310(d) also requires that the Commission consider the qualifications of the transferee or assignee as if it were applying for the license directly under section 308 of the Act.[41] Among the factors that the Commission considers in its public interest inquiry is whether the applicant has the requisite "citizenship, character, and financial, technical, and other qualifications."[42] No commenter has raised credible issues regarding Altice's specific qualifications, and we conclude, as we did in the *Suddenlink/Altice Order*, that Altice satisfies the qualification requirements of section 310(d).[43] We disagree with the unsupported allegations of MFRConsulting that the transaction would result in one individual, Patrick Drahi, as the ultimate owner of Altice, having too much control over important infrastructure.[44] We have previously consented to Altice's entrance into the U.S. market, and Altice has acquired and invested in communications companies in multiple countries. The record does not contain any evidence that Altice would fail to undertake the proposed transaction knowledgeably, responsively, and accountably to Cablevision's customers. CWA and MFRConsulting raise concerns related to the financing of the proposed transaction, itself, including whether it requires Applicants to assume too much debt leading to harmful effects on network investment, service quality, and jobs for the post-transaction Cablevision.[45] We address those issues below.

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[39] *See, e.g., Applications of Sprint Nextel Corporation and Clearwire Corporation for Consent to Transfer Control of Licenses, Leases and Authorizations*, Memorandum Opinion and Order and Declaratory Ruling, 23 FCC Rcd 17570, 17582-83, para. 23 (2008) (*Sprint Nextel/Clearwire Order*); *Applications of Cellco Partnership d/b/a Verizon Wireless and Atlantis Holdings LLC For Consent To Transfer Control of Licenses, Authorizations, and Spectrum Manager and De Facto Transfer Leasing Arrangements*, Memorandum Opinion and Order and Declaratory Ruling, 23 FCC Rcd 17444, 17464, para. 31 (2008) (*Verizon Wireless/ALLTEL Order*).

[40] *See, e.g.*, *Sprint Nextel/Clearwire Order*, 23 FCC Rcd at 17582-83, para. 23; *Verizon Wireless/ALLTEL Order*, 23 FCC Rcd at 17464, para. 31.

[41] 47 U.S.C. § 310(d).

[42] 47 U.S.C. §§ 308(b) ("All applications for station licenses, or modifications or renewals thereof, shall set forth such facts as the Commission by regulation may prescribe as to the citizenship, character, and financial, technical, and other qualifications of the applicant to operate the station . . ."), 310(d); 47 C.F.R. § 63.03(c)(1)(v) (stating that the Commission, acting through the Chief of the Wireline Competition Bureau, may determine that an application "requires further analysis to determine whether a proposed transfer of control would serve the public interest"). *See AT&T/BellSouth Order*, 22 FCC Rcd at 5756, para. 191; *Applications of SBC Communications Inc. and BellSouth Corporation for Consent to Transfer of Control or Assignment of Licenses and Authorizations*, Memorandum Opinion and Order, 15 FCC Rcd 25459, 25465, para. 14 (WTB, IB 2000).

[43] *Suddenlink/Altice Order*, 30 FCC Rcd at 14358, para. 15.

[44] MFRConsulting Comments at 5, 19. *But see Suddenlink/Altice Order*, 30 FCC Rcd at 14362, para. 23 (rejecting commenter concerns that Altice ownership is too far removed from domestic service territories and stating that "Altice has acquired and invested in companies in multiple countries, and the record does not contain any evidence that Altice will fail to undertake the proposed transaction in a manner that requires it to be knowledgeable, responsive, and accountable to the local community."). *See, e.g., Applications of Softbank Corp., Starburst II, Inc., Sprint Nextel Corporation, and Clearwire Corporation for Consent to Transfer Control of Licenses and Authorizations; Petitions for Reconsideration of Applications of Clearwire Corporation for Pro Forma Transfer of Control*, IB Docket No. 12-343, Memorandum Opinion and Order, Declaratory Ruling, and Order on Reconsideration, 28 FCC Rcd 9642, 9651, para. 24 (2013) (*Softbank/Sprint Order*) (consenting to a transaction resulting in foreign ownership and control of a domestic carrier).

[45] CWA Petition at 8-17; MFRConsulting Comments at 19-21.

C. Public Interest Harms and Benefits

14. In this section, we consider the potential harms and benefits arising from the transaction. Because Cablevision and Altice do not currently compete against each other, the transaction would not reduce the number of service providers in local markets. We have reviewed Applicants' additional evidence in the record addressing the commenters' claims of harms as well as the benefits Applicants claim.[46] We find the transaction is likely to result in some tangible benefits for customers and conclude that, on balance, the benefits outweigh any potential public interest harms.

1. Potential Harms

a. Competition

15. Based on the record evidence, we find the transaction is unlikely to have adverse competitive effects. In order for a transaction to have horizontal effects on competition, the parties must currently provide, or be very likely to provide, similar services within the same relevant geographic market.[47] In order for a transaction to have vertical effects on competition, ordinarily one of the parties or its competitors must currently provide, or be very likely to provide, goods or services to the other or its competitors.[48] Because Altice's only existing interest in a U.S. communications entity, Suddenlink, has no overlapping facilities with Cablevision, they do not compete for customers in the same geographic area, nor are they likely to do so in the foreseeable future.[49] Accordingly, we find that the transaction will not result in horizontal effects and will not result in a significant reduction of competition at any level.[50]

16. Because Altice and Cablevision do not provide programming or other services to each other in the United States, we find that the transaction will not result in harm related to vertical effects.[51] Further, we are persuaded by Applicants' claim that the transaction would reduce vertical integration by eliminating any common control between Cablevision's cable operations and its programming interests, MSG Networks' regional sports networks and AMC Networks, Inc., including AMC, Sundance TV, IFC, and WEtv.[52] We therefore conclude that the transaction is not likely to harm competition and may result in some increase in competition due to a reduction in vertical integration.

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[46] *See* Response to Information Request at 1-13.

[47] The Commission has stated that a transaction is considered to be horizontal when the parties to the transaction sell products that are in the same relevant product and geographic markets. *See, e.g., AT&T/BellSouth Order,* 22 FCC Rcd at 5675, para. 23, note 82.

[48] *See Applications of Comcast Corporation, General Electric Company, and NBC Universal, Inc. for Consent to Assign Licenses and Transfer Control of Licensees*, MB Docket No. 10-56, Memorandum Opinion and Order, 26 FCC Rcd 4238, 4250, para. 27 (2011); *Applications for Consent to the Transfer of Control of Licenses, XM Satellite Radio Holdings Inc., Transferor, to Sirius Satellite Radio Inc., Transferee*, Memorandum Opinion and Order and Report and Order, 23 FCC Rcd 12348, 12367, para. 36 (2008); Kip Viscusi, John M. Vernon & Joseph E. Harrington, Jr., Econ. of Reg and Antitrust 192, 233 (3d ed. 2000).

[49] Application at 13-15, 18.

[50] *See AT&T/DIRECTV Order*, 30 FCC Rcd at 9187, 9190, paras. 146-47, 155 (finding that although the transaction would result in some loss of competition between AT&T and DIRECTV, which provided overlapping video services, the transaction did not result in harmful horizontal effects because the parties focused their marketing efforts on customers of cable companies, which they considered to be their primary competitors, and because AT&T's wireline and DIRECTV's satellite video services were not "particularly close substitutes").

[51] *See AT&T/DIRECTV Order*, 30 FCC Rcd at 9197, para. 176.

[52] Application at 7, 13. Although MFRConsulting acknowledges that the transaction would result in a reduction of vertical integration, it argues that is a comparatively small benefit because of the small size of Cablevision. MFRConsulting Comments 8-9. It speculates that that vertical integration may still be part of Altice's long term goal based on Altice's holdings in Europe, but we do not find evidence in the record to support that argument.

b. Cablevision's Financial Condition Post-Transaction and Potential Harms to Network Investment, Service Quality, and Employment

17. For the reasons discussed below, we find that the record in this proceeding does not support the claims of CWA and MFRConsulting regarding alleged harms associated with the financing of the proposed transaction and the resulting impact on network investment and jobs. We find that the presence of competitors in the New York Metro area should provide the merged company with an incentive to maintain network investment and service quality. In addition, there are several factors that, on the whole, could help Applicants manage the debt associated with financing the proposed transaction. Accordingly, we conclude that Applicants have met their burden to demonstrate that there are mitigating factors that remove the potential harms that could result from the proposed transaction. We therefore reject commenters' arguments and CWA's requested merger conditions.[53]

18. *Financial Issues.* CWA and MFRConsulting assert that the proposed transaction is "debt-fueled" because it would more than double Cablevision's existing debt and almost double its annual interest payments to $1.1 billion.[54] In order to finance the acquisition, Altice is issuing $8.6 billion in new debt, which when added to Cablevision's current debt load of $5.9 billion, would leave the post-transaction Cablevision with a total net debt of $14.5 billion.[55] These commenters point out that following announcement of the Altice transaction, Moody's Investor Service (Moody's) placed Cablevision under review for downgrade while Standard & Poor's Financial Services LLC gave Cablevision a "Credit Watch with negative implications" noting that "[t]he Credit Watch listing reflects the potential for at least a one notch downgrade upon completion of the acquisition by Altice."[56]

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[53] CWA and MFRConsulting generally assert that the proposed transaction is heavily leveraged and would leave Cablevision with debt payments that Altice will be forced to offset by degrading service and eliminating jobs. To support their contentions, they maintain that Altice has already compromised the companies it operates in foreign jurisdictions through poor management and cost cutting. *See generally* CWA Petition at 4-21; MFRConsulting Comments at 3-23. In addition, CWA contends that we should deny the applications or condition approval of the transaction on Altice committing to expand broadband service, report service quality benchmarks, commit to certain capital and operating expenditures, limit the dividends or other payments Altice can extract from Cablevision, commit not to eliminate jobs and grow employment levels, and protect employer bargaining status. *See, e.g.*, CWA Petition at 20-21.

[54] *See* Letter from Debbie Goldman, Telecommunications Policy Director, Communications Workers of America, WC Docket No. 15-257, at 1 (filed Jan. 21, 2016) (CWA Jan. 21, 2016 *Ex Parte* Letter). In earlier filings, CWA commented that "Cablevision will be distressed with new interest payments of $654 million on top of Cablevision's current interest payments of $559 million for a total of $1.23 billion annual interest payments, which represents a 112% increase in Cablevision debt." CWA Petition at 9. We note that Altice disputes the $654 million figure, stating that the figure is actually $550 million because, as Altice asserts, the $654 million figure "ignored the fact that some of the debt raised in connection with the transaction will be used to refinance Cablevision's existing indebtedness." Applicants' Reply at 4.

[55] According to Altice, it created a new subsidiary called Neptune Finco Corp. that issued the $8.6 billion in debt. In connection with the transaction, Neptune Finco Corp. will be merged into CSC Holdings, LLC, a wholly owned subsidiary of Cablevision. Neptune Finco Corp. will then no longer exist, and CSC Holdings, LLC, will survive as the entity that holds the debt. *Cablevision SEC Form 10-K for the Year Ended December 31, 2015* at 2-3; Notice to the Holders of Ordinary Shares of Altice N.V. and to Holders of Altice Luxembourg S.A's Senior Notes, http://altice.net/wp-content/uploads/2015/10/Palermo-Cleansing-Notice-Full.pdf; CWA Jan. 21, 2016 *Ex Parte* Letter at 1-2 (listing terms of the new debt).

[56] CWA Petition at 9-10 ("As a result of the heavy debt financing, Moody's immediately put Cablevision under review for downgrade, noting that its eye-popping debt level of 8x earnings (net-debt-to-EBIDTA ratio) 'creates risk for a company in a capital intensive, competitive industry.' Moody's had previously identified leverage of 4.75x net-debt-EBIDTA as the upper limit for Cablevision's Ba2debt rating.").

19. In analyzing this issue, we compare the expected outcome if we approve the transaction to what we expect would occur if the transaction is denied.[57] Prior to entering into its agreement with Altice, Cablevision stated that it needed financing to support its expected capital expenditures and meet its obligations. Specifically, Cablevision's Form 10-K for the year ending December 31, 2014 filed with the Securities and Exchange Commission (SEC) stated that it must raise "significant amounts of funding" to fund capital expenditures and meet obligations and that the company might have to engage in "extraordinary transactions that involve the incurrence of large amounts of debt."[58] Even though the debt level will increase, Altice, which upon consummation of the transaction will be Cablevision's parent, is a large international company that is likely to be better able to raise capital than Cablevision as a stand-alone entity. Accordingly, we are unable to conclude on the basis of the record before us that the risk of potential harm to customers from Cablevision's financial distress is greater if we were to approve the transaction than it would be if Altice did not acquire Cablevision.

20. That being said, we recognize commenters' concerns that the transaction debt load is significant. However, we find that certain factors ameliorate these concerns. Moody's predicts a cost savings of $450 million in two to three years post-transaction, adding to Cablevision's cash flow.[59] According to our analysis, incorporating this $450 million cost savings lowers the post-transaction Cablevision's net-debt-to-EBITDA ratio from 7.4 to 6.2.[60] Furthermore, incorporating the $450 million

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[57] *See, e.g.*, *AT&T/DIRECTV Order*, 30 FCC Rcd at 9175. App. C, para. 111 (comparing a scenario in which the parties remained unmerged but offered discounted service bundles).

[58] Cablevision's SEC Form 10-K for the year ending December 31, 2014, states "[w]e will need to raise significant amounts of funding over the next several years to fund capital expenditures, repay existing obligations and meet other obligations and the failure to do so successfully could adversely affect our business. We may also engage in extraordinary transactions that involve the incurrence of large amounts of debt. . . . We have substantial future capital commitments in the form of long-term contracts that require substantial payments over a period of time. We will not be able to generate sufficient cash internally to fund anticipated capital expenditures, meet these obligations and repay our indebtedness at maturity." *See* Cablevision Systems Corporation, *SEC Form 10-K for the Year Ended December 31, 2014* at 18 (also stating that it may need to "raise additional capital, through debt or equity issuances or both"). We also note that, as a result of the proposed transaction, Cablevision will have access to a $2 billion dollar credit facility to provide additional financial support. *See infra* note 63.

[59] Moody's Investors Service, Moody's assigns B1 to Neptune Finco Corp. (Sept. 24, 2015), https://www.moodys.com/research/Moodysassigns-B1-to-Neptune-Finco-Corp-AlticeCablevision-acquisition-financing--PR_335284 ("Moody's believes that Altice will achieve its planned $450 million cost savings target in a phased approach over a two to three year timeframe following the deal close."). It is unclear whether the cost savings of $450 million that Moody's predicts is related to savings in operating or capital expenditures (or both). CWA and MFRConsulting also focus on public statements by Altice regarding projected cost savings occurring three to five years post-transaction in higher amounts of $1.05 billion ($900 million in operating expenses and $150 million in capital expenses). *See*, *e.g.*, CWA Jan. 21, 2016 *Ex Parte* Letter at 1; CWA Petition at 12-13. These commenters allege that Altice can only achieve that level of savings by reducing network investment and service quality, thereby harming consumers. Applicants maintain that the projected $1.05 billion in cost savings will not result in reduced investment or service quality. Although, initially, the record in this proceeding reflected a dispute between the parties about whether the $1.05 billion cost savings is an annual or cumulative savings, *see*, *e.g.*, Applicants' Reply at 4, no party in the record disputes Moody's prediction that Altice should realize a $450 million cost savings in two-three years post transaction. *See infra* note 71.

[60] Based on our analysis, Cablevision's pre-transaction net-debt-to-EBIDTA ratio is 4.8 and rises to 7.4 post-transaction, the latter ratio being higher than that of some other cable companies. *See, e.g.*, Response to Information Request at Attachment B. The net-debt-to-EBITDA ratio is calculated by a firm's net debt divided by the earnings before interest, taxes, depreciation and amortization, and it indicates a firm's capacity to meet long-term financial commitments. It is one of several indicators of the financial health of a firm. We rely on the $450 million savings as predicted by Moody's instead of Applicants' estimated savings of $1.05 billion for the following reasons. First, CWA and MFRConsulting do not raise any objections to the $450 million figure. *See supra* note 59. Second, it is relatively easier to achieve $450 million savings than $1.05 billion. Finally, Cablevision's financials would be stronger with the savings of $1.05 billion than that of $450 million, and thus for the purposes of our public interest

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figure raises the interest coverage ratio (EBIT/interest) from 1.56 to 1.69.[61] We note Cablevision reports that revenue grew every year between 2012 and 2015, which indicates a level of stability for Cablevision to meet its financial obligations.[62] We also find it particularly significant that while dividends are commonly paid from operating cash flow, Applicants emphasize that Cablevision would be restricted from paying dividends unless the ratio of consolidated indebtedness to cash flow hits 5.5:1, which Applicants assert is "a standard ratio for the industry."[63]

21. Finally, we recognize that the financing of transactions with increased debt levels than is normal for the industry entails risk (including, potentially, the risk of bankruptcy if the transferee is unable to service the debt).[64] We note that upon consummation, Cablevision will be a subsidiary of

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analysis, we rely upon the more conservative $450 million figure. Based on the SEC Form 10-K for the year ending December 31, 2015, and assuming a $450 million cost savings, the Commission staff calculated the net-debt-to-EBITDA ratio for post-transaction Cablevision to be 6.2, which reduces the ratio from 7.4 as calculated without the $450 million in cost savings. *See* Cablevision Systems Corp, *SEC Form 10-K for the Year Ended December 31, 2015* at Index to Financial Statements, F7-F8.

[61] Based on the SEC Form 10-K for the year ending December 31, 2015, and assuming a $450 million cost savings, the Commission staff calculated the interest coverage ratios as 1.69. *See* Cablevision Systems Corp, *SEC Form 10-K for the Year Ended December 31, 2015* at Index to Financial Statements, F7-F8. The interest coverage ratio reflects pre-tax income to total interest and indicates whether the firm has sufficient operating earnings to pay the interest expense. The higher the ratio, the higher the firm's ability to service debt obligations. *See, e.g.*, Investopedia Staff, *Interest Coverage Ratio*, at Investopedia, http://www.investopedia.com/terms/i/interestcoverageratio.asp.

[62] Cablevision reported revenues of approximately $6.2 billion, $6.1 billion, $6.2 billion, $6.4 billion and $6.5 billion in 2011, 2012, 2013, 2014, and 2015, respectively, in its SEC Forms 10-K indicating stable revenues for the company in the past. The stability of revenue streams over the last five years implies that its revenue is expected to remain stable in the near future. If the revenues of Cablevision do not decline, it should be positioned to meet its financial obligations post-transaction.

[63] Response to Information Request at 5. The ratio of indebtedness to cash flow is the ratio of a company's total debt to it cash flow. The ratio is one of the indicators for a firm's capacity to meet the long-term financial commitments. Response to Information Request at 5 (stating that "the indentures governing the Acquisition Financing permit CSC Holdings LLC and its subsidiaries that are 'restricted subsidiaries' (collectively, the 'CSC Holdings Restricted Group') to pay dividends only if the ratio of consolidated indebtedness (as defined in such indentures) to consolidated cash flow of the CSC Holdings Restricted Group for the most recent two quarters on an annualized basis is less than 5.5:1, a standard ratio for the industry"). According to Applicants, Cablevision's dividends currently amount to about $140 a year. *Id.* We note this restriction on dividends applying to post-transaction Cablevision is in line with CWA's request for such a restriction. *See* CWA Petition at 4 ("Altice should not be allowed to starve Cablevision of resources it needs for investment and quality service in order to upstream cash to the parent to finance future acquisitions. Cablevision should be subject to reasonable limits on the amount of dividends or other 'upstream' payments that Altice can extract from Cablevision."). Applicants state that Cablevision would have access to a five-year $2 billion revolving credit facility which they assert "provide[s] substantial near term support to achieve increased [Adjusted Operating Cash Flow] (AOCF) in the near term" and, according to Applicants, provides additional flexibility for Cablevision to meet its financial obligations. Applicants' Reply at 3; Response to Information Request at 5. To be clear, we do not consider the information in the preceding sentence to shift the scales in either direction in our public interest analysis, and we note it solely for completeness. We note that although such a credit facility may provide Applicants with "flexibility" during that five year time-frame, drawing upon such credit will further increase Cablevision's debt ratio.

[64] *See Applications Filed by Frontier Communications Corporation and Verizon Communications Inc. for Assignment or Transfer of Control*, WC Docket 09-95, Memorandum Opinion and Order, 25 FCC Rcd 5972, 5980-81-83, paras. 18-24 (2010) (*Verizon/Frontier Order*) (explaining that the Commission accepts that all transactions carry risks and that all companies are vulnerable to unforeseen events, but that Frontier, as the acquiring company, demonstrated that it was likely to be able to expand broadband and meet service quality commitments based on financial conditions at the time it entered into the transaction); *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Sixteenth Report, 30 FCC Rcd 3253, 3328-3329, para.167 (2015)
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Altice, a large international company that is in a better position to raise funds and investment than Cablevision as presently constituted as a stand-alone company.[65] In determining whether the Cablevision subsidiaries, which will be wholly owned and controlled by Altice, are financially qualified to hold licenses, we do not substitute our business judgment for that of the applicant or the marketplace.[66] And, while we cannot know with certainty whether Cablevision would experience financial distress after closing more than it would in the absence of the transaction, we find that the representations of Applicants concerning Cablevision's financial viability are reasonable. Beyond the ordinary and largely unpredictable market risks that accompany any business transaction, the record does not demonstrate that Altice is underfunded or an irresponsible buyer unqualified to undertake the transaction. Instead, Altice has demonstrated that it has the requisite financial qualifications to hold and use these Commission licenses and authorizations in the public interest.[67]

22. *Potential Harm to Network Investment and Quality of Service*. CWA and MFRConsulting also assert that new debt levels will force Altice to cut Cablevision's operating and capital expenses down to a level harmful to network investment and quality service.[68] CWA argues that, "Altice calls these 'synergy' and 'efficiency' savings, but in fact they are a transfer of funds to banks and investors at the expense of customers who experience these cuts as service-impacting reductions."[69] CWA and MFRConsulting also focus on announcements by Altice about doubling Cablevision's operating cash flow margins (from 28 percent to 50 percent) and reducing operating expense by almost 300 percent (from $49 to $14 to $16 per customer/month), asserting that, "cuts of this magnitude cannot be made without impacting service."[70]

23. We are not persuaded that the proposed transaction will lead to reductions in network investment and service quality.[71] First, as we note above, Cablevision's pre-transaction SEC Form 10-K

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(2015 *Video Competition Report*) (explaining certain risks exist with financing media transactions); *see also supra* note 58 (stating that the pre-transaction Cablevision envisioned the need for "significant amounts of funding over the next several years to fund capital expenditures, repay existing obligations and meet other obligations and the failure to do so successfully could adversely affect our business").

[65] *See* Application at 10-11 ("Cablevision is a far smaller company than rivals such as Verizon, AT&T/DIRECTV and DISH, and accordingly, it is at a disadvantage in making major competitive investments. Cablevision's smaller customer base limits its ability to spread the costs of research, development, and deployment, and to drive innovation through its relationships with equipment manufacturers and other providers of network and service inputs. In fact, a number of U.S. cable providers have opted for technology developed by larger cable operators to ensure what is perceived to be a more viable and robust technology path going forward in light of increasing capital commitments. Projects that are prohibitively expensive or risky when undertaken by a company with 3.1 million subscribers, however, can become far more feasible when undertaken by a company like Altice, with nearly 35 million subscribers worldwide. The Transaction thus would help level the playing field by giving Cablevision the ability to invest with the backing of Altice's global scale and access to capital, as well as its considerable technical and operational expertise.").

[66] *See Verizon/Frontier Order*, 25 FCC Rcd at 5981-83, para. 19.

[67] *Id.* (stating that "although the Commission has a responsibility to consider the financial qualifications of the transferee, it is not the Commission's role to substitute its business judgment for that of the applicants or the market; rather, the relevant question here is whether Frontier has the requisite financial qualifications to hold and use these Commission licenses and authorizations in the public interest").

[68] *See, e.g.*, CWA Petition at 2 and 8-9; MFRConsulting Comments at 2 and 4-5.

[69] CWA Petition at 12.

[70] CWA Jan. 21, 2016 *Ex Parte* Letter at 2-3; *see also*, *e.g.*, CWA Petition at 13; MFRConsulting's Dec. 30, 2015 Submission at 9-10.

[71] We note the issue of reductions in network investment and service quality is largely disputed in the record on the basis of whether the projected cost savings should be considered a "harm" or a "benefit" to network investment and service quality. *See supra* note 59. While both Applicants and opposition agree that a cost savings of approximately

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for the year ending December 31, 2014, indicates that it planned to "engage in extraordinary transactions that involve the incurrence of large amounts of debt" because, in part, "[w]e will not be able to generate sufficient cash internally to fund anticipated capital expenditures, meet these obligations and repay our indebtedness at maturity."[72] We find that, in this regard, the proposed merger results in financing that Applicants have judged will allow Cablevision to continue to fund its operations and that allows Altice to "strategically invest in its service provider affiliates in order to improve their service offerings and enhance their competitive position in the market."[73] Second, based on our own analysis above, we have determined that several factors will help Altice to raise Cablevision's cash flow.[74] Third, in absence of any evidence that Altice is behaving irresponsibly, as is also discussed above, there is no basis on which we could conclude Cablevision will reduce network investment, as compared with the case without the transaction.

24. Even if the post-transaction debt levels could lead Cablevision to want to lower investment in network quality and extension as compared with the case without the transaction, competitive forces and Altice's commitments make this unlikely. The transaction will not reduce the level of competition faced by Cablevision prior to the merger. Cablevision faces competition for voice, video, and residential broadband Internet access service (BIAS). With respect to fixed voice service, Cablevision faces, at a minimum, competition with the incumbent provider in the marketplace. For video services, the Commission has analyzed national data and reported that 99 percent of homes in the United States have access to at least three multichannel video programming distributors (MVPDs), which would be the case in the New York Metro area.[75] For high-speed BIAS,[76] Cablevision competes against Verizon FiOS in census blocks accounting for 69 percent of the households in which Cablevision has deployed cable broadband.[77] This level of competition was sufficient to lead Cablevision to conclude that it

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$450 million will be realized in the first two to three years, Applicants assert such cost savings are a benefit that will bolster network investment and service quality while, according to CWA and MFRConsulting, such cost savings are viewed as harmful cuts that threaten the post-transaction Cablevision. *Id*. We note that Moody's reference to the cost savings of $450 million does not state whether it is derived from operating or capital expenses. *See* Moody's Investors Service, Moody's assigns B1 to Neptune Finco Corp. (Sept. 24, 2015), https://www.moodys.com/research/Moodysassigns-B1-to-Neptune-Finco-Corp-AlticeCablevision-acquisition-financing--PR_335284. Applicants also state that they will use part of the $450 million to "make substantial, near-term investments, implement changes in operations, and develop new offerings that will enhance competition and improve the customer experience." Response to Information Request at 7; *see also infra* Section C.2. According to Altice, the "majority of savings will have nothing to do with areas that bear on customer experience," but mostly come from "overhead, general and administrative expenses, procurement, and special projects that can be eliminated without adverse consequences to service or customers." Applicants' Reply at 4. *But see* CWA Jan. 21, 2015 *Ex Parte* Letter at 1-2 ("These cuts - which are driven by Altice's financial model - will be service-impacting; there are no 'merger-related' duplicative operations to be cut and few opportunities to reduce programming expense by delivering more U.S. cable viewers").

[72] *See supra* note 58.

[73] Application at 12.

[74] *See supra* para. 20.

[75] *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Sixteenth Report, 30 FCC Rcd 3253, at 3267, para. 31 (2015) (*2015 Video Competition Report*).

[76] The Commission's rules define BIAS as a mass-market wireline or wireless retail service that provides the capability to transmit and receive data across substantially all Internet endpoints. 47 CFR § 8.11(a); *see also 2015 Open Internet Order* at 5610, para. 25. The definition of BIAS excludes "enterprise services, virtual private network services, hosting, or data storage services." *Id.* at 5610, para. 26.

[77] FCC Form 477 Broadband Deployment Data, as of June 30, 2015; Application at 14 ("Even when considered in combination with Altice's pending acquisition of Suddenlink, the combined company . . . would have more than 2 million fewer subscribers than Verizon FiOS, which competes aggressively with Cablevision . . . ."). We note that our analysis is limited by the geographic areas for which we have data. For purposes of this proceeding, we present

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required substantial additional investment, or a transaction such as this one, in order to remain competitive. Altice would be unlikely to enter this transaction if it believed it could not profitably and competitively manage Cablevision, and we are not persuaded that the financing structure suggests that the post-transaction Cablevision will operate less profitably or efficiently in terms of network investment or service quality.

25. We recognize that Cablevision might devote fewer financial resources to upgrading its broadband network in those areas of its footprint in which Verizon FiOS is not available to customers. However, as discussed below, Altice has committed to the NY PSC that, as part of the transaction, it will invest fully across the Cablevision footprint, and specifically, will provide the network investment to support 300 Mbps service to all customers.[78] Based on this assertion, we find it reasonable to expect that Altice will invest in service quality and infrastructure improvements in furtherance of its stated intention to compete for all customers.[79] Overall, we do not find that the transaction is likely to result in financial instability for Cablevision or reduce its ability to invest in network infrastructure, and we conclude that Altice is likely to have the financial resources necessary to maintain and improve the Cablevision network.[80]

26. *Potential Harm to Employment*. In connection with their claims about reduced network investment and service quality, CWA and MFRConsulting assert that, because of the need to service the new debt, Altice plans to "raise cash flow by massive job cutting, and where it can, cuts in employees' compensation."[81] Appended to CWA's comments is a Joint Statement from UNI Global Union and certain other union organizations, along with CWA, suggesting that Altice helped finance its acquisitions by implementing cost savings through workforce reductions in France and Portugal.[82] Applicants reply that Altice did not finance acquisitions in France and Portugal through workforce reductions.[83]

27. We conclude that CWA's claims that Applicants will finance the transaction by job cuts are speculative. Applicants state that Altice did not finance its acquisitions abroad through workforce

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statistics in order to support our conclusion that post-merger Cablevision will continue to have an incentive to compete and to maintain its network because it faces competition for voice, video, and BIAS services. Although we present statistics based upon census block and census tract areas, we do not conclude that these census areas constitute a relevant geographic market for purposes of conducting a competitive analysis. The Commission has stated that the deployment of fiber to the premises (FTTP), as offered by Verizon FiOS, may have a positive effect on broadband competition, and that cable market shares may decline when a company faces competition from FTTP instead of DSL. *AT&T/DIRECTV Order*, 30 FCC Rcd at 9265, para. 345 (citing Craig Moffett *et al*., Moffett Nathanson Research, U.S. Cable and U.S. Telecom: The Broadband Report, 24, Exh. 21 (July 8, 2014)).

[78] *See infra* at 47.

[79] Application at 6 ("Cablevision subscribers, in turn, will benefit from Altice's global scale, access to capital, and fresh perspective, all of which will be brought to bear in Cablevision's already fierce daily contest against much larger rivals such as Verizon, AT&T/DirecTV and DISH in the New York Metro area, the nation's most competitive market."); Altice Reply at 8 (citing Presentation, "Morgan Stanley TMT Conference (Nov. 12, 2015) ("Altice's approach to network investment has brought benefits to *all* of its customers, not merely customers who buy higher-cost service packages, as CWA alleges . . . . By investing in the Cablevision network and providing user-friendly, innovative services to its customers, Altice expects to earn customer loyalty, resulting in a lower churn rate and ultimately better average revenue per user . . . ." (emphasis in original)).

[80] *See infra* at paras. 39-48.

[81] For example, CWA asserts "[m]aking an acquired company pay off massive debt load with service-impacting cost cutting has serious and negative consequences for customers, suppliers, communities, and workers." CWA Petition at 20.

[82] CWA Petition at Attachment A; *see also* MFRConsulting's Feb. 9, 2016 Submission at 1-4 (excerpting statements from disputes between Altice and employees of Portugal Telecom).

[83] Applicants' Reply at 9.

reductions, and even if Altice had done so, the past practices of Altice abroad have only limited relevance to what Altice plans for Cablevision's employment matters in this transaction and in this particular market.[84] In addition. Altice has not identified job cuts as a means to achieve cost savings.[85] We therefore do not find on this record that there is a public interest harm associated with a loss of employment. The NY PSC is also reviewing the potential employment impact associated with this transaction.[86]

c. Interconnection Issues

28. We find that the proposed transaction is unlikely to harm the ability of providers to interconnect with Cablevision for the exchange of Internet traffic and therefore do not grant Cogent's request that we impose merger conditions concerning interconnection. Cogent, a backbone provider that currently interconnects with Cablevision, asserts that we should remedy instances where a combined Altice-Cablevision "might engage" in interconnection practices that impair the delivery of Internet content to customers.[87] It states that Altice, which has recently acquired Suddenlink, could have enough increased scale with the addition of Cablevision's subscribers to impair the delivery of Internet content that would compete with the merged firm's video offerings.[88] Cogent requests that we require Applicants to interconnect with qualifying networks or edge providers and augment network capacity on a settlement-free peering basis, agree to disclose all interconnection agreements for a period of four years from the closing of the transaction, and report Internet interconnection performance metrics to the Commission.[89] As discussed below, Applicants have affirmed that they will continue Cablevision's existing interconnection practices post-transaction, which Cogent acknowledges work well today, and we find that conditions are unnecessary to address any potential public interest harms.

29. The Commission has previously discussed the role of interconnection between BIAS providers and other networks and services online (*e.g.*, transit providers, content delivery networks), and its ultimate relationship to the ability of consumers to access the applications and services of their choosing.[90] As the Commission has stated, regardless of the cause "[w]hen [interconnection] links are congested and capacity is not augmented, the networks—and applications, large and small, running over the congested links into and out of those networks—experience degraded quality of service due to reduced throughput, increased packet loss, increased delay, and increased jitter."[91]

30. Both Cablevision and Suddenlink interconnect with backbone providers and CDNs. They purchase transit service or interconnect on a settlement-free peering basis.[92] Applicants affirm on

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[84] *Id*; *see also*, infra at para. 42.

[85] As explained above, Altice has stated that cuts will mostly come from "overhead, general and administrative expenses, procurement, and special projects that can be eliminated without adverse consequences to service or customers." *See infra* note 71.

[86] *See NY PSC Proceeding*, Staff of the Department of Public Service Interrogatory/Document Request No. DPS-38 (examining labor reductions post-transaction).

[87] Cogent Comments at 4. BIAS providers, like Cablevision, interconnect with backbone services, content delivery networks (CDNs), other BIAS providers, and edge providers in order to provide subscribers with full Internet access. *See 2015 Open Internet Order*, 30 FCC Rcd at 5687-88, paras. 196-97.

[88] Cogent Comments at 4.

[89] *Id.* at 9-11; Letter from Robert M. Cooper, Counsel to Cogent Communications, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 15-257, at 1-2 (filed Jan. 20, 2016).

[90] *See 2015 Open Internet Order*, 30 FCC Rcd at 5687-92, paras. 196-201 (discussing the importance of Internet traffic exchange and trends in the marketplace).

[91] *2015 Open Internet Order,* 30 FCC Rcd at 5689, para. 199.

[92] Information is available publicly about Cablevision's and Suddenlink's Internet interconnection arrangements. AS Rank: AS 6128 Cablevision Systems Corp., CAIDA, http://as-rank.caida.org/?mode0=as-info&mode1=as-

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the record that "neither Cablevision nor Suddenlink engages in paid peering practices."[93] In addition, Cablevision has an "open" peering policy while Suddenlink has a "selective" peering policy.[94] This means that Cablevision has no minimum number of points of presence (POPs) at which its interconnection partners must exchange traffic and no minimum amount of traffic it requires to be exchanged, while Suddenlink requires interconnection at two POPs with a minimum amount of traffic exchanged of 100 Mbps.[95] Based on publicly available information, it appears that Cablevision's and Suddenlink's requirements for an entity to qualify for settlement-free peering are minimal.[96] We have no record of Internet interconnection disputes at the Commission involving Cablevision or Suddenlink. Consistent with these practices, Cogent states it has always enjoyed a strong business relationship with Cablevision whereby the companies have interconnected on a settlement-free basis "to provide fast, high-quality, and reliable Internet connectivity to Cablevision's residential broadband subscribers."[97] Going forward, Applicants state that "there are no current plans to change Peering policies of Cablevision or Suddenlink as result of Altice's proposed acquisition of Cablevision."[98]

31. We anticipate based on our review of publicly available information that, post-transaction, Altice will continue to be a medium-sized BIAS provider in the U.S. Cablevision and Suddenlink combined are projected to have just under 4 million BIAS subscribers, which is in the middle of the range between a small provider, such as Cincinnati Bell, which has approximately 281,000 subscribers, and the largest provider, Comcast, which has over 22 million BIAS subscribers.[99] Post-transaction, the combined company will have approximately 1.6 million fewer customers than the next

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table&as=6128&n=50&table-details=simple (last visited March 1, 2016); AS6128 Cablevision Systems, Hurricane Electric BGP Toolkit, http://bgp.he.net/AS6128 (last visited March 1, 2016); AS Rank: AS 19108 Suddenlink Communications, CAIDA (last visited March 1, 2016), http://as-rank.caida.org/?mode0=as-info&mode1=as-table&as=19108 (last visited March 1, 2016); AS19108 Suddenlink Communications, Hurricane Electric BGP Toolkit, http://bgp.he.net/AS19108 (last visited March 1, 2016).

[93] Response to Information Request at 8.

[94] Cablevision, Cablevision Peering Requirements, http://www.cv.net/peering/requirements/ (last visited March 1, 2016); PeeringDB, Suddenlink Communications, https://beta.peeringdb.com/net/1183 (last visited March 1, 2016); Suddenlink, Suddenlink Communication's Settlement-Free Interconnection (Peering) Policy, http://www.suddenlink.com/terms-policy/peering (last visited March 1, 2016); *see also* William Norton, Peering Inclinations, http://drpeering.net/AskDrPeering/blog/articles/Internet_Service_Providers_and_Peering___Peering_Policy.html (last visited March 4, 2016).

[95] Cablevision, Cablevision Peering Requirements, http://www.cv.net/peering/requirements/ (last visited March 1, 2016); PeeringDB, Suddenlink Communications, https://beta.peeringdb.com/net/1183 (last visited March 1, 2016); Suddenlink, Suddenlink Communication's Settlement-Free Interconnection (Peering) Policy, http://www.suddenlink.com/terms-policy/peering (last visited March 1, 2016); *see also* William Norton, Peering Inclinations, http://drpeering.net/AskDrPeering/blog/articles/Internet_Service_Providers_and_Peering___Peering_Policy.html (last visited March 4, 2016).

[96] *See* William Norton, A Study of 29 Peering Policies, DrPeering (2009), http://drpeering.net/white-papers/Peering-Policies/A-Study-of-28-Peering-Policies.html. In addition, Cablevision and Suddenlink score well on the Netflix Speed Index, which measures the speed performance during prime time viewing for customers using Netflix, an online video provider. Netflix, Netflix ISP Speed Index (January 2016), https://ispspeedindex.netflix.com/country/us/.

[97] Cogent Comments at 3.

[98] Response to Information Request at 9.

[99] *3.1 Million Added Broadband from Top Providers in 2015*, Leichtman Research Press Release (Mar. 11, 2016, http://www.leichtmanresearch.com/press/031116release.html (Leichtman Release).

biggest provider and will be ranked seventh among BIAS providers.[100] This combined post-transaction size is consistent with the size of BIAS providers that rely on a combination of settlement-free peering and paid transit services.[101] In addition, the transaction does not change in any fundamental way the extent of Cablevision's Internet backbone facilities. According to December 2014 data reported on Form 477, after the transaction, Altice will control **[BEGIN HIGHLY CONF. INFO.]** [redacted] **[END HIGHLY CONF. INFO.]** percent of all national fixed BIAS subscribers.[102] Consequently, Altice's post-transaction share of wired nationwide BIAS subscribers and control of interconnection traffic is unlikely to give the company sufficient bargaining power in the interconnection market to raise prices for edge providers, nor is it likely to incentivize the company to harm video competition by targeting online video providers in the same manner that might occur with a large BIAS provider. Should post-transaction concerns arise, the Commission has determined that it will take a case-by-case approach to considering whether interconnection practices constitute unjust, unreasonable, or unjustly discriminatory practices under sections 201 and 202 of the Act.[103] Thus, if interconnection concerns arise with the combined entity, interconnecting parties may seek relief from the Commission.

d. Cable Modem Issues

32. Zoom argues that Cablevision's cable modem billing policies impact the competitive retail market by providing disincentives to consumers to attach their own cable modem or by discouraging transparency in consumer billing.[104] We conclude that these issues are not transaction-specific and thus are more appropriately addressed in the pending industry-wide rulemaking proceeding on navigation devices and, accordingly, we decline to resolve such contentions here.

33. Cable modems connect consumer equipment to the broadband Internet access service offered by cable operators. They are available to consumers both for lease from operators, generally for a monthly fee, and for purchase from operators or third-party retailers.[105]

34. Zoom, which produces, markets, sells, and services cable modems and other communications devices, asserts that Cablevision fails to state separately the price of its modem rentals on subscriber bills,[106] and that this practice violates law and Commission rules, and is contrary to the public interest.[107] Zoom contends that because Altice has not affirmatively stated that it will ensure that Cablevision's cable modem pricing policies will comply with applicable statutes and regulations in the manner Zoom alleges they should, Applicants have failed to show that this transaction is in the public interest.[108] Accordingly, Zoom asks that the Commission designate the Application for hearing, deny the

[100] *Id*.

[101] *See 2015 Open Internet Order*, 30 FCC Rcd at 5687-92, paras. 196-201.

[102] Calculation based on December 2014 data reported on Form 477 with respect to residential broadband subscribers. If limited to 25 Mbps download and 3 Mbps upload, this figure becomes **[BEGIN HIGHLY CONF. INFO.]** [redacted] **[END HIGHLY CONF. INFO.]** percent of national fixed BIAS subscribers.

[103] *2015 Open Internet Order*, 30 FCC Rcd at 5694-95, para. 205.

[104] Petition to Deny of Zoom, WC Docket No. 15-257 at 2 (filed Dec. 7, 2015) (Zoom Petition).

[105] *See, e.g.*, Dong Ngo, *Home networking explained, part 8: Cable modem shopping tips*, CNET, Dec. 22, 2015, http://www.cnet.com/how-to/home-networking-explained-part-8-cable-modem-shopping-tips/; Bestbuy, *Wireless & Cable Modems: VOIP Routers and Adapters*, http://www.bestbuy.com/site/networking/cable-dsl-modem-voip/abcat0503013.c?id=abcat0503013; B&H.com, http://www.bhphotovideo.com/c/buy/Modems/ci/13107/N/4294542234 (both showing numerous high-performance cable modems for less than $100) (last visited Mar. 14, 2016).

[106] Zoom Petition at 3-4.

[107] *Id.* at 4-5, 13-15.

[108] *Id.* at 13-15, 17.

Application, or impose a set of conditions designed to ensure that Altice crafts lawful cable modem policies.[109]

35. According to the Applicants, as of November 17, 2014, Cablevision charges new BIAS customers who lease a Cablevision-provisioned modem a separate cable modem rental fee of $4.95 per month.[110] The Applicants assert that residential subscribers that initiated service prior to that date were not subject to any cable modem charge,[111] and that, at all times, subscribers have been allowed to use their own cable modems.[112] Zoom contends that new Cablevision customers subscribing to Internet service continue to be offered a bundled price that includes the rental of a cable modem,[113] and that invoices for new subscribers do not reflect a separate cable modem fee.[114]

36. Zoom contends that Cablevision's cable modem billing policies violate section 76.1206 of the Commission's rules[115] and section 629 of the Communications Act, among other statutory provisions.[116] The Applicants argue in response that Zoom's reliance on section 629 is misplaced, and that the regulations Zoom relies on do not impose any requirements on the pricing of cable modems.[117] Moreover, Applicants argue that the Commission need not provide the relief sought because such measures are designed to serve "broad-based policy goals" and are not transaction-specific.[118] Accordingly, Applicants urge the Commission to reject Zoom's petition.[119] No other parties commented on the potential effect of the proposed transaction on Cablevision's modem practices.

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[109] *Id.* at 15-18.

[110] Response to Information Request at 10.

[111] *Id.* at 10.

[112] *Id.* at 10. From January 2013 to November 17, 2014, Cablevision provided all subscribers with a modem without additional charge. Since instituting a monthly modem fee, Cablevision has removed the charge for subscribers who decline or return a Cablevision-provided modem. *Id.*

[113] Zoom Petition at 3-4.

[114] *Id.* at 3-4, Exhibit B (showing a bill of a subscriber that Zoom alleges became a new customer in August 2014). Zoom argues that Cablevision's policy to bundle the modem fee ended in mid-2013. Applicants note that this policy was in effect from January 2013 through November 17, 2014. Response to Information Request at 10. Zoom also alleges that as of December 2015, neither the company's online portal, nor customer service representatives give subscribers the opportunity to opt out of a cable modem when a customer attempts to sign up for new service. Zoom Petition at 3-4, Exhibit C.

[115] Zoom Petition at 6-7 (citing 47 CFR § 76.1206; 76.923). Section 76.1206 requires MVPDs offering navigation devices subject to the provisions of section 76.923 to separately state the charges for these devices. *Id.* at 6-7. Even though section 76.923 refers to equipment necessary to receive the basic cable television service tier, Zoom contends that section 76.1206 should be read to apply to all rate-regulated MVPDs that offer any equipment for lease, regardless of whether or not the equipment is used to receive the television basic tier service. As such, Zoom argues that section 76.1206 applies to cable modems provided by Cablevision and prohibits the bundling and subsidizing of cable modem charges. *Id.* at 7-9.

[116] *Id.* at 4-5 (citing 47 U.S.C. § 549).

[117] Applicants' Reply at 11-12.

[118] *Id.* at 11.

[119] *Id.* at 12 (*citing Applications of Softbank Corp., Starburst II, Inc., Sprint Nextel Corp. & Clearwire Corp*., Memorandum Opinion and Order, Declaratory Ruling, and Order on Reconsideration, 28 FCC Rcd 9642, 9674 (2013)) (finding that it was not appropriate to revisit the open Internet issues raised in the proceeding as they were addressed in a recent industry-wide proceeding); *Applications Filed by Altice N.V. and Cequel Corp. d/b/a/ Suddenlink Communications to Transfer Control of Authorizations from Suddenlink Communications to Altice N.V.*, Memorandum Opinion and Order, 30 FCC Rcd 14352, 14359 (2015).

37. While Zoom has presented the Commission with arguments concerning Cablevision's cable modem billing policies and the impact it believes such policies could have on the competitive retail market, we find that these issues are more appropriately addressed in the pending industry-wide rulemaking proceeding on navigation devices and, thus, need not be resolved here.[120] Relevant to Zoom's allegations, the recently-adopted *Navigation Devices NPRM MO&O* seeks comment on a proposal to revise the Commission's rules to require all MVPDs to state separately the charge for a leased navigation device, including a cable modem, on a subscriber's bill, and to reduce the charges by that same amount for subscribers that provide their own devices.[121] The *Navigation Devices NPRM MO&O* further inquires whether, if the foregoing rule change is adopted, the Commission should also "impose a prohibition on cross-subsidization of device charges with service fees."[122] The Commission adopted the *Navigation Devices NPRM MO&O* very recently, and the comment cycle it established remains open.[123] We find that resolution of the questions posed with respect to billing policies for cable modems and other navigation devices, including those of Cablevision and Altice, is best addressed in the ongoing navigation devices rulemaking proceeding, and, accordingly, we decline to adopt the relief that Zoom requests here related to those billing practices.[124]

38. While Zoom does not allege that Cablevision's current cable modem certification practices violate the law or public interest standard, Zoom nonetheless requests that the Commission adopt conditions ensuring, among other things, that Altice institute an open certification program for the approval of customer-owned cable modems.[125] Given the lack of any record regarding any transaction-specific harms related to Applicants' certification policies, we also decline to impose conditions related to modem certification.

2. Potential Benefits

39. For the reasons discussed below, we do not rely on Altice's prior cable company management experience as a verifiable benefit on this record. We ascribe limited weight to Applicants' general statements that the transaction would result in cost savings that can be considered quantifiable, transaction-specific benefits. We do conclude that Altice's commitment to increase broadband investment and improve broadband affordability for low income consumers in the Cablevision service territory is likely to result in transaction-specific, verifiable benefits to consumers. Because we find the transaction is likely to facilitate Cablevision's efforts to compete and serve all customers in its territory, we are not persuaded that imposing specific conditions related to broadband deployment, as proposed by CWA, is necessary.[126]

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[120] *Expanding Consumers' Video Navigation Choices; Commercial Availability of Navigation Devices*, MB Docket No. 16-42, Notice of Proposed Rulemaking and Memorandum Opinion and Order, FCC 16-18 (2016) (*Navigation Devices NPRM MO&O*).

[121] *Navigation Devices NPRM MO&O* at 42, para. 84. The NPRM proposes to revise 47 CFR § 76.1206. The rule as currently written applies the separate billing and anti-subsidization requirements to navigation devices subject to the provisions of 47 CFR § 76.923. Section 76.923, in turn, refers to the rate regulation of equipment and installation that is used to receive the basic service tier. The proposed rule would expand the separate billing and anti-subsidization requirements to all MVPDs and to all navigation devices, including modems.

[122] *Navigation Devices NPRM MO&O* at 42, para. 85.

[123] Media Bureau Announces Comment and Reply Deadlines for Video Navigation Choices NPRM and Establishes Schedule for Ex Parte Meetings, MB Docket 16-42, Public Notice, DA 16-290 (MB Mar. 17, 2016).

[124] *Cf. Applications filed by Qwest Communications International, Inc. and CenturyTel, Inc.*, Memorandum Opinion and Order, 26 FCC Rcd 4194, 4203-04, para. 18 (2011) (declining to impose conditions related to special access as they were better addressed in current rulemaking).

[125] Zoom Petition at 16.

[126] *See* CWA Petition at 3-4, 21.

40. The Commission applies several criteria in deciding whether a claimed benefit should be considered in assessing a proposed transaction.[127] First, the benefit must be transaction-specific.[128] Second, the benefit must be verifiable.[129] Because much of the information relating to the potential benefits of a transaction is in the sole possession of the applicants, they are required to provide sufficient evidence supporting each claimed benefit to allow the Commission to verify its likelihood and magnitude. Third, "the magnitude of benefits must be calculated net of the cost of achieving them."[130] Finally, the Commission applies a "sliding scale approach" to evaluating benefit claims.[131] Under this sliding scale approach, where potential harms appear "both substantial and likely, a demonstration of claimed benefits also must reveal a higher degree of magnitude and likelihood than we would otherwise demand."[132] Conversely, where potential harms appear unlikely or less likely and less substantial, as is the case with the applications before us, the Commission will accept a lesser showing of claimed benefits.[133]

41. *Investment in Broadband Services*. Applicants assert that the transaction would serve the public interest because it would result in increased investment and improved broadband services in the Cablevision service territory. In support of these claimed transaction benefits, Applicants focus on: Cablevision's already high level of broadband offerings, which Altice states it would continue and expand;[134] Altice's history of investing in and accelerating the existing broadband network plans of the service providers acquired by Altice;[135] and Altice's expertise in managing a global network and the associated economies of scale.[136] Applicants explain that, as of December 31, 2015, Cablevision's in-footprint network passed approximately 5,080,000 households and that Cablevision has "deployed broadband to nearly 100%" of its in-network footprint.[137] Applicants submit that, with a small exception, every household in the Cablevision service territory has "access to broadband services at 101 Mbps, 50 Mbps, 25 Mbps, and 5 Mbps."[138] Applicants further state that Cablevision recently began testing 1 Gbps

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[127] *See AT&T/DIRECTV Order*, 30 FCC Rcd at 9237, para. 273; *AT&T/BellSouth Order*, 22 FCC Rcd at 5760, para. 200.

[128] *See AT&T/DIRECTV Order,* 30 FCC Rcd at 9237, para. 273; *Applications of NYNEX Corp. and Bell Atlantic Corp. for Consent to Transfer Control of NYNEX Corp. and Its Subsidiaries*, 12 FCC Rcd 19985, 20066, para. 168 (1997) (*Bell Atlantic-NYNEX Order*) (disregarding purported benefits that are not merger specific).

[129] *See AT&T/DIRECTV Order,* 30 FCC Rcd at 9237, para. 274.

[130] *Id*. at 9237-38, para. 275.

[131] *Id*. at 9238, para. 276.

[132] *Id*.

[133] *Id*.

[134] Application at 6, 9; Applicants' Reply at 6-7; Response to Information Request at 6-8.

[135] Application at 11-12; Applicants' Reply at 4-6.

[136] Application at 9; Applicants' Reply at 5-6.

[137] Response to Information Request at 6. *See Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act*, 2015 Broadband Progress Report and Notice of Inquiry on Immediate Action to Accelerate Deployment, 30 FCC Rcd 1375, 1377, para. 3 (2015) (finding that having "advanced telecommunications capability" requires access to actual download speeds of "at least 25 Mbps and actual upload speeds of at least 3 Mbps"). Applicants state that Cablevision has deployed a network of more than 1.3 million WiFi hotspots throughout the New York Metro area, which, Applicants claim, give Cablevision's broadband subscribers access to "unlimited wireless broadband at no extra charge." Application at 8.

[138] Response to Information Request at 6. Applicants note that there are a few hundred homes on one of the Long Island barrier islands to which Cablevision makes video service available by microwave link, but does not have the capability of providing broadband service. *Id*. at n.6.

service through a bulk sale offering to a small number of multiple dwelling unit buildings in New York and New Jersey.[139] Altice says that it plans to "upgrade the Cablevision network by pushing fiber deeper into the network, eliminating active components in order to achieve lower failure rates, and introducing newer, better, and more consumer-friendly customer premises equipment."[140] Altice argues that, by upgrading Cablevision's network with wider and deeper fiber deployment and other operational efficiencies, it would position Cablevision to compete more effectively with Verizon FiOS and improve service offerings available to customers throughout its footprint, including those areas not overbuilt by FiOS.[141]

42. Altice, Applicants contend, has a track record of successfully investing in, and improving the broadband offerings of, the companies it acquires. Applicants provide several examples in which Altice acquired control of companies in France, Belgium, Luxembourg, Israel, and Portugal, and invested in the networks to "improve their service offerings and enhance their competitive position in the market."[142] Applicants claim that the capital expenditures for these Altice-owned companies surpassed those of the incumbents with which they compete.[143] Applicants also assert that Altice has enhanced its broadband networks to increase speeds and the number of subscribers that can benefit from its services.[144] Altice has indicated that it expanded broadband coverage in its foreign jurisdictions and has stated that its business model is to make strategic investments that improve the quality and reliability of service and, in turn, enable it to realize cost savings.[145] Commenters have not rebutted these specific European expansion numbers claimed by Applicants. While CWA alleges that Altice unreasonably cut costs to boost profits and will do so again with Cablevision, we do not find that Altice's prior actions in foreign jurisdictions demonstrate how it will manage Cablevision.[146] The public interest does not require us to dissect each business decision Altice has made in non-U.S. markets to determine whether its asserted benefits in this case are reasonable. Further, in the U.S. market, specifically, Altice has asserted that its U.S. business model is to focus on re-investing in infrastructure to enhance competitiveness and create long-term value.[147] Indeed, in the *Suddenlink/Altice* proceeding, Altice stated that it would complete Project Gigaspeed, a four year investment program aimed at making 1 Gbps service available to the vast majority of Suddenlink customers.[148]

43. *Management Experience.* We do not rely on Applicants' general statements that, post-transaction, Cablevision customers would benefit from Altice's management experience and operating

[139] *Id.* at 6.

[140] Applicants' Reply at 5-6.

[141] Application at 9-11.

[142] *Id.* at 12.

[143] *Id*.

[144] *Id.* at 9-12; Applicants' Reply at 6-8.

[145] Applicants' Reply at 6-7 (listing specific 2014-15 broadband expansion statistics by Altice in France for its subsidiary, Numericable SFR, including doubling 4G coverage by November 2014 and planning to increase coverage to 90 percent by 2017 and over 95 percent by 2020, increasing the number of Numericable SFR's new fiber homes passed to 330,000 by the third quarter of 2015, and stating that it expects to accelerate this expansion to about 500,000 additional homes per quarter in 2016 and 2017, and accelerate fiber build-out plans to 22 million homes by 2020).

[146] CWA Petition at 14-17; *see also* MFRConsulting's Apr. 11, 2016 Submission at 1-4 (arguing that Altice and its investors do not have viable business models).

[147] *See* Application at 9-13.

[148] *Suddenlink/Altice Order*, 30 FCC Rcd at 14361, para. 23.

processes.[149] When determining whether a proposed benefit will result in a quantifiable, transaction-specific benefit, the Commission asks whether the benefit likely will be accomplished in the absence of the proposed transaction and whether the benefit will flow through to consumers and accrue to the public interest.[150] Here, we acknowledge that Altice has experience investing in and managing cable companies. However, Cablevision also has that experience, and Applicants have not shown why Cablevision is not capable of achieving the claimed benefits in the absence of the transaction. Applicants state that Altice would ensure Cablevision achieves cost reductions in its operating processes and IT systems as well as incremental subscriber growth and reduced churn due to improved operating processes that Cablevision would not be able to achieve otherwise.[151] At the same time, Applicants acknowledge that Cablevision already has a long history of continuous investment and innovation and has been at the forefront of offering new services to attract customers, including "a variety of affordable service offerings targeted specifically at the needs of and interests of 'cord-cutters' and 'cord-nevers.'"[152] Because we are unable to quantify a potential benefit to consumers from Altice's management experience and operating processes in comparison to Cablevision's, we do not rely on them in determining whether the transaction is in the public interest.

44. *Cost Savings.* We ascribe limited weight to Applicants' general statements that the transaction would result in cost savings that can be considered quantifiable, transaction-specific benefits.[153] As we discuss in greater detail above,[154] for the purposes of analyzing whether the transaction will result in too much debt for post-transaction Cablevision, we take account of a $450 million in savings over a two to three year period.[155] Our standards for weighing whether, and to what extent, claimed cost savings will result in transaction-specific, verifiable benefits to consumers requires us to apply closer scrutiny to the asserted savings than our initial calculations of the amount of savings that are likely to result from the transaction.[156]

45. Applicants state that Altice will focus on cost savings related to overhead, general and administrative expenses, procurement, and special projects.[157] Applicants contend that the proposed cost savings will ultimately improve service quality, network investments, as well as information technology

[149] Application at 7-13 (stating that Altice would bring "considerable" experience to Cablevision of upgrading and managing Cablevision's network and intends to "continue investing in and upgrading Cablevision's IT systems, including customer care, service provisioning and billing systems, to improve processes and be in an even better position to serve customers." and explaining Altice's experience in operating cable companies in foreign jurisdictions); Response to Information Request at 4 (asserting that Altice plan for reducing costs post-transaction includes "reducing historically high corporate expenses, eliminating corporate functions no longer necessary in a combined (or private) company, implementing improved operations and IT systems, optimizing processes and implementing operational re-organizations, and leveraging the scale of Alice's worldwide operations to obtain improved purchasing power for customer promises equipment, network components, IT systems and related inputs.").

[150] *AT&T/DIRECTV Order*, 30 FCC Rcd at 9237-38, paras. 273-76.

[151] Response to Information Request at 4.

[152] Application at 8-9.

[153] Applicants claim that after the transaction closes, Altice will focus on ". . . costs related to overhead, general and administrative expenses, procurement and special projects that can be eliminated without adverse consequences to service or consumers." Applicants' Reply at 4; Response to Information Request at 4.

[154] *See supra* note 71.

[155] Applicants' Reply at 4-5 (citing Moody's Investors Service, *Moody's assigns B1 to Neptune Finco Corp.*, Moody's (Sept. 24, 2015), https://www.moodys.com/research/Moodysassigns-B1-to-Neptune-Finco-Corp-AlticeCablevision-acquisition-financing--PR_335284.).

[156] *See infra* para. 20.

[157] Applicants' Reply at 4.

investments, which will be "financed in part by the initial savings realized and will result in better service to Cablevision customers and higher satisfaction rates."[158] Moreover, Applicants state that they expect to use part of the cost savings to make "substantial, near-term investments, implement changes in operations, and develop new offerings that will enhance competition and improve the customer experience" such as: the all-in-one home center, which will allow subscribers to integrate various cable, online, media, and WiFi and Ethernet connected devices; launching a new customer interface; and continued investment in and support of Cablevision's WiFi network.[159]

46. Applicants have not stated whether the savings Altice expects to achieve will result in lower prices for consumers, or whether the post-transaction Cablevision will use savings to maintain or improve upon the offerings it currently provides to a broad base of customers. It is therefore difficult to evaluate just how much of the cost savings would actually benefit the public interest. As the Commission has previously found, Applicants should support claims of potential benefits with details such as whether savings would result in a reduction in marginal costs or a reduction in fixed costs.[160] The Commission has explained that reductions in fixed costs may be less cognizable than reductions in marginal costs because the former are less likely to result in lower prices or improved services for consumers.[161] Given that at least some of the claimed costs savings are savings to fixed costs, for example costs associated with overhead, we are unable to calculate the extent to which customers will benefit from the asserted savings. On the other hand, we find that some of Altice's claimed cost savings, for example those related to procurement, are likely to reduce marginal costs and result in benefits to consumers.[162] In addition, given the existence of competitors in Cablevision's service territory, we find that Altice will have an increased incentive to pass some of these savings on to consumers. We therefore ascribe some limited weight to these claimed benefits.

47. *Improved Broadband Speed and Pricing.* We find that the transaction is likely to result in Altice fulfilling its stated U.S. business plans to improve Cablevision's nearly ubiquitous broadband offerings in its service territories by increasing available speeds and making broadband service affordable to low-income customers. We find that Altice's commitment to the NY PSC to "upgrade the Cablevision network so that all existing customer locations are able to receive broadband service of up to 300 Mbps" provides sufficient assurance that all customers will benefit from enhanced broadband service post-transaction.[163] Applicants state that they "expect to effectuate this commitment in all existing customer locations in Cablevision's service territory"[164] and to "commence this network upgrade immediately after the transaction closes, and to complete it to all such locations not later than the end of calendar year

[158] *Id.* at 6; Response to Information Request at 4.

[159] Response to Information Request at 7.

[160] *AT&T/DIRECTV Order*, 30 FCC Rcd at 9244-45, para. 294 (stating that because much of the information relating to the potential benefits of a transaction is in the sole possession of the Applicants, they are required to provide sufficient evidence supporting each claimed benefit to enable the Commission to verify its likelihood and magnitude).

[161] *Id.* at 9244-45, para. 294.

[162] *Bell Atlantic-NYNEX Order*, 12 FCC Rcd at 20677, paras. 169-70 (1997) (finding that procurement savings reduce the cost of incremental inputs, thereby reducing marginal cost and conferring a benefit while fixed costs, including overhead, would not be a benefit).

[163] Letter from Tara M. Corvo, Counsel for Cablevision Systems Corporation and Yaron Dori, Counsel for Altice N.V., *et al*. to Marlene H. Dortch, Secretary, FCC, WC Docket No. 15-257, at 2 (filed Apr. 26, 2016) (Applicants' April 26, 2016 *Ex Parte* Letter).

[164] Applicants state that the term "Cablevision service territory" refers to "all broadband Cablevision customer locations in New York, Jersey [sic] and Connecticut, and the single franchise community Cablevision serves in Pennsylvania." *Id*. at note1.

2017."[165] Applicants further state that Altice will introduce "a new low income broadband package of 30 Mbps for $14.99 a month throughout Cablevision's service territory."[166] Applicants provide that "[T]he low income package will be available to all eligible customers in Cablevision's footprint within 15 months after closing."[167] Applicants state that "at a minimum" its commitments to the NY PSC will include the specific plans above.[168] We agree with Applicants that "these specific commitments –and any others that may result from other reviews of the Transaction" will improve the quality of services available to consumers.[169] We accept these as firm and definite commitments from Altice and, accordingly, credit them as a benefit to support a finding that the transaction is in the public interest. Based on Altice's commitments, we reject CWA's argument that Altice's cost cutting measures will result in a lack of broadband deployment and services, particularly to lower income customers.[170] Further, as we discuss in greater detail above, we agree with Applicants that the presence of competitors in the voice, video, and BIAS marketplaces creates a reasonable expectation that Altice will have sufficient incentives to provide improved services at competitive prices in the majority of its territory.[171] We are cognizant of Cablevision's pre-existing efforts toward its broadband improvement goals. We are also aware that there are portions of Cablevision's service territory where Verizon FiOS does not exist as a competitor and, therefore, Cablevision may not be exposed to the same incentives to improve services and lower prices in those areas compared to areas where competitors exist. However, we find that Altice's broadband commitments to the NY PSC provide sufficient assurance that customers throughout Cablevision's territory will have access to improved speeds and more affordable broadband service options for lower income customers.

48. *Conclusion.* As explained above, while we discount Altice's claimed benefits regarding management expertise, we find that the Applicants' claimed cost savings are likely to result in a limited benefit to consumers and that their specific broadband commitments are likely to result in benefits to

[165] *Id*.

[166] *Id*. at 2-3. Applicants state that the low income broadband commitment will be subject to the following eligibility requirements: "First, there will be no modem fees.; Second, the program will be open, without any credit checks, to (1) households with children eligible for the National School Lunch Program, and (2) individuals age 65 and older who are eligible for and receive benefits under the federal Supplemental Security Income program, in each case so long as the enrollee has not had a Cablevision broadband subscription within 60 days of signing up for the low-income program and is not in arrears on any payments to Cablevision at the time of enrollment." Applicants further state that "[w]ithin six months following consummation of the Transaction, Cablevision will begin piloting the low income program, as well as begin associated training and outreach to stakeholders." *Id*. at 3.

[167] *Id*. at 3.

[168] *Id.* at 2.

[169] Applicants' April 26, 2016 *Ex Parte* Letter at 3.

[170] *See, e.g.*, CWA Petition at 16 (citing articles stating that Numericable-SFR raised prices and targeted "higher-revenue paying customers as a way to compensate for the overall decline in subscribers). *But see* Applicants' Reply at 6 (responding that SFR had been underinvested prior to Altice's acquisition and Altice is now attempting to improve service).

[171] *See* Application at 8 (contending that the New York Metro area is one of the most competitive broadband, voice and video markets in the United States); MFRConsulting Comments at 15 (claiming that Altice views the U.S. market as not competitive overall, but citing an Altice chart depicting Cablevision's market as the most competitive among the top cable providers in the U.S.); Applicants' Reply at 8 ("[B]y investing in the Cablevision network and providing user-friendly, innovative service to its customers, Altice expects to earn customer loyalty, resulting in a lower churn rate and ultimately better average revenue per user. This, in turn, will perpetuate revenue growth to support yet further investment and innovation."); Jack O'Dweyer, O'Dweyer's, Inside News of Public Relations & Marketing (Mar. 7, 2016), http://www.odwyerpr.com/story/public/6455/2016-03-07/altice-buy-cablevisionli-could-save-subscribers.html (stating that the transaction could result in lower prices for consumers).

consumers in Cablevision's service territories. Therefore, we conclude that the transaction is likely to result in some benefits to consumers, thereby serving the public interest.

D. National Security, Law Enforcement, Foreign Policy, and Trade Concerns

49. When analyzing a transfer of control or assignment application, we also consider any national security, law enforcement, foreign policy, or trade policy concerns raised by the relevant Executive Branch Agencies.[172] On April 20, 2016, the Executive Branch Agencies submitted a Petition to Adopt Conditions to Authorizations and Licenses.[173] The DOJ Petition states that the Executive Branch Agencies advise the Commission that they have no objection to grant of the applications provided that we condition it on compliance by Altice and Cablevision with the commitments and undertakings set forth in the 2016 LOA from the Applicants and Cequel to the DOJ, pursuant to which Applicants are bound by the definitions, rights, and obligations contained in the 2015 NSA between Altice, Cequel, and the DOJ.[174] We find that grant of the Applications, subject to compliance with the 2016 LOA and 2015 NSA, will serve the public interest, convenience, and necessity.

IV. CONCLUSION

50. We conclude that granting the Applications serves the public interest. Based on our careful review of the record and the commitments made in the Applicants' April 26, 2016 *Ex Parte* Letter, we find the transaction is unlikely to result in any significant public interest harms. We find that the transaction is likely to result in some public interest benefits of increased broadband speeds and more affordable options for low income consumers in Cablevision's service territory. Although we find that the public interest benefits are limited, the scales tilt in favor of granting the Applications because of the absence of harms. Accordingly, we grant the proposed transfers subject to compliance by Altice and Cablevision with the terms of the 2016 LOA and 2015 NSA.

V. ORDERING CLAUSES

51. Accordingly, having reviewed the Applications and the record in this matter, IT IS ORDERED that, pursuant to sections 4(i)-(j), 5(c), 214, 303(r), 309, and 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i)-(j), 155(c), 214, 303(r), 309, 310(d), and sections 0.51, 0.61, 0.91, 0.131, 0.261, 0.283, 0.291, and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.51, 0.61, 0.91, 0.131, 0.261, 0.283, 0.291, and 0.331, the Applications to assign and transfer control of domestic and international section 214 authorizations, wireless licenses, and cable television relay service station licenses ARE GRANTED subject to the condition specified herein.

52. IT IS FURTHER ORDERED that, pursuant to sections 4(i)–(j) and 214 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i)–(j), 214, the Petition to Adopt Conditions to Authorizations and Licenses filed by the U.S. Department of Justice, including the Federal Bureau of Investigation, with the concurrence of the U.S. Department of Homeland Security and the U.S. Department of Defense, IS GRANTED. Grant of the Applications IS CONDITIONED UPON the compliance by Altice N.V. and Cablevision Systems Corporation with the commitments and undertakings

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[172] *See Rules and Policies on Foreign Participation in the U.S. Telecommunications Market,* 12 FCC Rcd 23891, 23918-21, paras. 59-66 (1997); *see also Review of Foreign Ownership Policies for Common Carrier and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934, as Amended*, 28 FCC Rcd 5741, 5792, para. 95 note 255 (2013) ("The Commission has previously held that, regardless of the applicability of sections 310(a) and 310(b), the Commission considers, pursuant to sections 308 and 310(d) of the Act, national security, law enforcement, foreign policy and trade policy concerns when analyzing an application in which foreign ownership is involved.").

[173] Petition to Adopt Conditions to Authorizations and Licenses filed by of the U.S Department of Justice, WC Docket No. 15-1257 (filed April 20, 2016, attaching April 20, 2016 Letter of Agreement and December 11, 2015 National Security Agreement (DOJ Petition).

[174] *Id.* at 1-2.

set forth in the April 18, 2016 Letter of Agreement to the U.S. Department of Justice, pursuant to which Altice N.V. and Cablevision Systems Corporation are bound by the definitions, rights, and obligations contained in the December 11, 2015 National Security Agreement between Altice N.V., Cequel Corporation d/b/a Suddenlink Communications and the U.S. Department of Justice. A failure to comply and/or remain in compliance with any of these commitments and undertakings shall constitute a failure to meet a condition of the underlying authorizations and licenses, and thus grounds for declaring the authorizations and licenses terminated without further action on the part of the Commission. Failure to meet a condition of the license may also result in monetary sanctions or other enforcement action by the Commission.

53. IT IS FURTHER ORDERED, pursuant to section 1.102(b)(1) of the Commission's rules, 47 C.F.R. § 1.102(b)(1), that this Memorandum Opinion and Order IS EFFECTIVE upon release. Petitions for reconsideration under section 1.106 of the Commission's Rules, 47 C.F.R. § 1.106, or applications for review under section 1.115 of the Commission's rules, 47 C.F.R. § 1.115, may be filed within thirty days of the date of public notice, i.e., within thirty days of the release date, of this Memorandum Opinion and Order.

FEDERAL COMMUNICATIONS COMMISSION

Matthew S. DelNero
Chief, Wireline Competition Bureau

Mindel De La Torre
Chief, International Bureau

William T. Lake
Chief, Media Bureau

Jon Wilkins
Chief, Wireless Telecommunications Bureau

APPENDIX

SECTION 214 AUTHORIZATIONS

A. International

The applications for consent to the transfer of control of certain international section 214 authorizations from Cequel to Altice are granted.

File Number	Authorization Holder	Authorization Number
ITC-T/C-20151014-00237	Cablevision Lightpath, Inc.	ITC-214-19940128-00025

B. Domestic

The application for approval to transfer control of domestic 214 authorizations is granted.

SECTION 310(d) WIRELESS APPLICATIONS

The applications for consent to the assignment of licenses under section 310(d) of the Act are granted.

File Number	Licensee	Lead Call Sign
0006967948	Cablevision of Brookhaven, Inc.	KRZ668
0006967949	Samson Cablevision Corp.	KXS838
0006967950	CSC Holdings LLC	WPMM936
0006967951	Cablevision Lightpath, Inc.	WPZT765
0006967952	CSC Transport, Inc.	WQLC623
0006967953	News 12 Company	WPTG869
0006967954	Newsday LLC	WQJE942
0006974362	CSC Transport, Inc.	501cv

PART 78 -- CABLE TELEVISION RELAY SERVICES (CARS)

File Number	Licensee	Lead Call Sign
20151027AB-09	Cablevision Systems Long Island Corporation	WLY-427
20151027AA-09	News 12 Connecticut LLC	KB-60118
20151027AC-09	News 12 Company	KD-55020
20151027AD-09	News 12 Company	KD-55021
20151027AE-09	News 12 Company	KD-55023
20151027AF-09	News 12 Company	KD-55025
20151027AG-09	News 12 Company	KD-55029

PART 25 – SATELLITE EARTH STATION LICENSES

File Number	Licensee	Lead Call Sign
SES-T/C-20151014-00679	News 12 Connecticut LLC	E010213
SES-T/C-20151014-00690	News 12 The Bronx, L.L.C.	E040308
SES-T/C-20151014-00691	News 12 New Jersey L.L.C.	E110121
SES-T/C-20151014-00692	News 12 Westchester LLC	E110020
SES-T/C-20151014-00693	News 12 Company	E940183